

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

AT HUNTINGTON

UNITED STATES OF AMERICA,

Respondent,

V.

CRIMINAL NO. 3:04-0222-01
(CIVIL ACTION NO. 3:05-1178)

CHARLES ALEXANDER HUGHES, JR.,

Movant.

FINDINGS AND RECOMMENDATION

The movant, Charles Alexander Hughes, Jr., has filed a motion in which he asks the Court to dismiss his pending §2255 motion “as it has been found that the ... petition is inadequate and ineffective to challenge the legality of detention.” He asks the Court to dismiss the pending motion without prejudice, allowing “the petitioner to move forward in his litigation.” The Court perceives no reason for denying the motion and has been advised that the United States does not intend to file a response.

RECOMMENDATION

On the basis of the foregoing, it is **RESPECTFULLY RECOMMENDED** that the §2255 motion filed by Charles Alexander Hughes, Jr., be dismissed without prejudice.

Movant and respondent are hereby notified that a copy of these Findings and Recommendation will be submitted to the Honorable Robert C. Chambers, United States District Judge, and that, in accordance with the provisions of Rule 8(b), Rules Governing §2255 Cases, the parties may, within thirteen days of the date of filing these Findings and Recommendation, serve and file written objections with the Clerk of this Court, identifying the specific portions of the Findings and Recommendation to which objection is made and the basis for such objection. The judge will make a de novo determination of those portions of the Findings and Recommendation to which objection is made in accordance with the provisions of 28 U.S.C. §636(b) and the parties are advised that failure to file timely objections will result in a waiver of their right to appeal from a judgment of the district court based on such Findings and Recommendation. Copies of objections shall be served on all parties with copies of the same to Judge Chambers and this Magistrate Judge.

The Clerk is directed to file these Findings and Recommendation and to mail a copy of the same to movant and all counsel of record.

DATED: May 10, 2006


MAURICE G. TAYLOR, JR.
UNITED STATES MAGISTRATE JUDGE